

REMARKS

1. Introduction

In the Office Action mailed December 24, 2009, the Examiner rejected claims 9, 11-15, 17-26, 28-32, and 34-42 under 35 U.S.C. § 103(a) as being unpatentable over Acres, U.S. Patent No. 6,712,697 (“Acres”), in view of what the Examiner regarded as Applicant’s admitted prior art (“AAPA”), and further in view of Brosnan et al., U.S. Patent No. 7,063,617 (“Brosnan”).

The Examiner rejected claims 45-54 under 35 U.S.C. § 103(a) as being unpatentable over Acres, in view of Brosnan, and further in view of Muskin, U.S. Pub. No. 2005/0170883 (“Muskin”).

The Examiner also rejected claims 9 and 26 under 35 U.S.C. § 112, ¶ 1, as failing to comply with the written description requirement.

In response, Applicant has amended claims 9, 26, 45, and 50.

For the reasons set forth below, Applicant requests reconsideration and allowance of the claims, as amended herein.

2. Response to Rejections under § 112

The Examiner rejected claims 9 and 26 under § 112 as failing to comply with the written description requirement. According to the Examiner, the language “wherein the a priori promotion credit is available to the player for immediate use for wagers without condition” that was added to claims 9 and 26 is not supported by Applicant’s specification. Applicant has previously cited page 1, line 30 – page 2, line 7 of Applicant’s specification for support. But the Examiner has taken the position that “this portion of the specification clearly states that players

are given credit based on the purchased wager, therefore this is a condition.” *See* Office Action, p. 3. The Examiner is clearly wrong because (1) the specification does not “clearly state that players are given credit based on the purchased wager” and (2) the “without condition” language in claims 9 and 26 means that there is no condition on the *use* of a priori promotion credit that has been awarded to the player, not that there are no prerequisites to the player being awarded a priori promotion credit.

The section of Applicant’s specification that supports the language added to claims 9 and 26 is reproduced below:

Promotion credit may arise in many ways, for example, as a result of a sign-on bonus in which a player is given a predetermined quantity of credit for registering as an authorised player at an online casino, or as a result of a purchase bonus in which the player is given the predetermined quantity of credit as a bonus when purchasing an amount of credit to be consumed during game play at the online casino. It is usual for this promotion credit given to the player to be a percentage of the amount of credit purchased by the player. The promotion credit is intended for use by the player to wager on games of chance or skill offered by the online casino. This type of credit is available to the player for immediate use for wagers and will be termed, for convenience, as a priori promotion credit.

See Specification, page 1, line 30 – page 2, line 7. Nothing in this section refers to giving credit to a player based on a purchased wager, as the Examiner has alleged. Thus, the Examiner’s rejection under § 112 is clearly erroneous because it is based on a misreading of Applicant’s specification. For this reason alone, the Examiner’s § 112 rejection should be withdrawn.

Moreover, the “without condition” language in claims 9 and 26 means that there is no condition on the *use* of the a priori promotion credit. In this regard, Applicant’s specification contrasts “a priori promotion credit” with “a posteriori promotion credit,” which the specification describes as promotion credit that is useable for wagering purposes only after certain conditions

have been met. *See* Specification, page 2, lines 9-16. Thus, there is no question that the “without condition” language is supported by Applicant’s specification.

To the extent that the Examiner’s § 112 rejection is based on the fact that Applicant’s specification describes prerequisites to being awarded a priori promotion credit (e.g., registering as an authorized player at an on-line casino), the Examiner’s § 112 rejection is clearly erroneous because claims 9 and 26 refer to a priori promotion credit that has already been awarded to the player. Thus, the “without condition” language in claims 9 and 26 does not mean that there are no prerequisites to being awarded a prior promotion credit but, rather, that there are no conditions on using the a priori promotion credit that has been awarded to the player. Because Applicant’s specification describes “a priori promotion credit” as being available for immediate use for wagers without condition (in contrast to “a posteriori promotion credit”), the Examiner’s § 112 rejection is clearly erroneous and should be withdrawn.

3. Response to Rejections under § 103

a. Claims 9, 11-15, 17-26, 28-32, and 34-42

Of these claims, claims 9 and 26 are independent. The Examiner has rejected claims 9 and 26 under § 103 as being unpatentable over a combination of Acres, in view of AAPA, and further in view of Brosnan. In response, Applicant submits that the rejections of claims 9 and 26 are improper and should be withdrawn because: (1) the cited combination does not teach the use of “a priori promotion credit” as recited in claims 9 and 26; and (2) the cited combination does not teach a “non-cashable sub-account” as recited in claims 9 and 26. These two points are discussed below.

1. The cited combination does not teach the use of “a priori promotion credit” as recited in claims 9 and 26

Claims 9 and 26 each recite the use of “a priori promotion credit” and define this type of promotion credit as follows: “wherein the a priori promotion credit is available to the player for immediate use for wagers without condition.” The Examiner has alleged that the “account credit” described in Acres corresponds to the claimed “a priori promotion credit.” *See* Office Action, p. 5. The Examiner is clearly wrong because the “account credit” in Acres is useable for wagers only on the condition that the player also wagers the player’s own money. As set forth in Acres’ Table 1, the player must use the player’s own money to place a wager before the account credit becomes available. *See* col. 6, lines 3-12. In step 2 of Table 1, the “[p]layer places wager by inserting bill into bill acceptor 68 or coin into the coin acceptor (not shown).” *See* col. 6, lines 6-7. In step 4 of Table 1, “[r]esponsive to play, the account credits are automatically debited in the amount of the wager and applied to credit meter 70.” *See* col. 6, lines 9-10. In col. 6, lines 36-50, Acres further describes how the player’s account credit is debited in the amount that the player has wagered using the player’s own money. Thus, whereas the “a priori promotion credit” recited in claims 9 and 26 is available to the player for immediate use for wagers ***without condition***, the account credit described in Acres is only ***conditionally*** useable for wagering.

The Examiner has also relied on AAPA, citing the discussion of “a priori promotion credit” in the Background section of Applicant’s specification. According to the Examiner, “the limitation as admitted by the applicant in the background of the application would have been within the knowledge of ordinary skilled artisan at the time of the invention.” *See* Office Action, p. 6. However, the Examiner’s mere allegation that “a priori promotion credit” was within the ordinary skill in the art of the time is not sufficient to establish a *prima facie* case of obviousness.

See MPEP § 2143.01(IV). The law is clear that “rejections on obviousness cannot be sustained by mere conclusory statements; instead there must be some articulated reasoning with some rationale underpinning to support the legal conclusion of obviousness.” *KSR Int’l Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007), quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). In this case, however, the Examiner has provided no “articulated reasoning” whatsoever for why a person of ordinary skill in the art would have replaced Acres’ “account credit,” which was only *conditionally* useable for wagers, with “a priori promotion credit” that was immediately useable for wagers *without condition*. Therefore, the Examiner has failed to establish a *prima facie* case of obviousness.

2. The cited combination does not teach the use of a “non-cashable sub-account” as recited in claims 9 and 26

Claims 9 and 26 each recite the use of a “non-cashable sub-account.” The Examiner has admitted that Acres does not disclose a non-cashable sub-account and instead has relied on Brosnan for this element. See Office Action, p. 6. In this regard, Brosnan distinguishes between “cashable” and “restricted” credits. See col. 10, lines 20-37. But Brosnan’s “restricted” credits do not correspond to the “non-cashable sub-account” in claims 9 and 26. This is because claims 9 and 26 recite that the “non-cashable sub-account” corresponds to “a portion of the player’s credit account that is *not redeemable for monetary value*.” In contrast, Brosnan’s “restricted” credits may be redeemed for cash, albeit at a discount. See col. 12, lines 9-11. In addition, Brosnan teaches that “restricted” credits can be cashed out at any time for monetary value in the form of a ticket or voucher (see col. 12, lines 22-29), unlike the “non-cashable sub-account” recited in claims 9 and 26.

Moreover, Applicant has amended claims 9 and 26 to specify that the non-cashable sub-account is not redeemable for monetary value “until a play-through requirement has been met.” The application of a play-through requirement that allows non-cashable credits to become progressively cashable is described in Applicant’s specification at various places, for example, at page 30, line 22 – page 32, line 27. In contrast, Brosnan does not describe any play-through requirement for the “restricted” credits. Instead, Brosnan teaches that “cashable” credits remain “cashable” and “restricted” credits remain “restricted.”

In connection with the “play-through requirement,” claims 9 and 26 further recite “at least one play-through sub-account for the player.” Applicant’s previous Response (which is incorporated herein by reference) established that Acres does not disclose a play-through sub-account for a player. *See* Response filed November 19, 2009, pages 13-14. Since Brosnan does not disclose any play-through requirement, Applicant submits that Brosnan also does not disclose a play-through sub-account and does not make up for the deficiency in Acres.

Accordingly, Applicant submits that claims 9 and 26, as amended, are allowable over Acres, in view of AAPA, and further in view of Brosnan, for at least the foregoing reasons. Applicant further submits that claims 11-15, 17-25, 28-32, and 34-42 are allowable for at least the reason that they are dependent upon allowable claims.

b. Claims 45-54

Of these claims, claims 45 and 50 are independent. The Examiner has rejected claims 45 and 50 under § 103 as being unpatentable over Acres in view of Brosnan and Muskin. In Applicant’s previous Response, Applicant noted that claims 45 and 50 referred to “peer-to-peer services, in which the house does not act as banker but levies a transaction charge” and that none

of Acres, Brosnan, and Muskin taught peer-to-peer services in which the house does not act as a banker but levies a transaction charge. *See* Response filed November 19, 2009, page 15. The Examiner, however, refused to apply this language because “applicant’s claim of peer-to-peer is literally interpreted as an intended use.” *See* Office Action, p. 9.

In response, Applicant has amended claims 45 and 50 to make clear that “peer-to-peer services” are more than merely an intended use. In particular, Applicant has amended claim 45 to recite a “credit administration facility being operable to compute: (i) a total balance of the player account as a function of wagers made by the player on house edge services, in which a house acts as a banker, and wagers made by the player on peer-to-peer services, in which the house does not act as a banker but levies a transaction charge.” Applicants has similarly amended claim 50 to recite “computing a total balance of a player as a function of wagers made by the player on house edge services, in which a house acts as a banker, and wagers made by the player on peer-to-peer services, in which the house does not act as a banker but levies a transaction charge.” These amendments specify that the total balance of a player account is computed as a function of, *inter alia*, wagers made by the player on peer-to-peer services, as defined in claims 45 and 50. Because none of Acres, Brosnan, and Muskin teach such peer-to-peer services, these references also do not teach computing a balance of a player account as a function of wagers made by the player on peer-to-peer services.

Accordingly, Applicant submits that claims 45 and 50, as amended, are allowable over Acres, Brosnan, and Muskin for at least the foregoing reasons. Applicant further submits that claims 46-49 and 51-54 are allowable for at least the reason that they are dependent upon allowable claims.

4. **Conclusion**

Applicant submits that the present application is in condition for allowance, and notice to that effect is hereby requested. Should the Examiner feel that further dialog would advance the subject application to issuance, the Examiner is invited to telephone the undersigned at any time at (312) 913-0001.

Respectfully submitted,

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